

AMENDED IN SENATE MAY 27, 2016

AMENDED IN SENATE APRIL 11, 2016

SENATE BILL

No. 1049

Introduced by Senator Hill

February 12, 2016

An act to amend Section 316 of the Public Utilities Code, relating to energy public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1049, as amended, Hill. Electrical corporations and gas corporations: accident investigations.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations and gas corporations. The Natural Gas Pipeline Safety Act of 2011 requires each gas corporation to develop a plan, as specified, for the safe and reliable operation of its commission-regulated gas pipeline facility, as defined. Existing law requires the commission to adopt inspection, maintenance, repair, and replacement standards for the distribution systems of electrical corporations in order to provide ~~high-quality~~ *high-quality*, safe, and reliable service. Existing law requires every electrical corporation to cooperate fully with the commission in an investigation into any major accident or any reportable incident, as defined by the commission, concerning overhead electric supply facilities, regardless of pending litigation or other investigations, including those that may be related to a commission investigation. Existing law requires every electrical ~~corporation~~ *corporation, after the scene of the incident has been made safe and service has been restored*, to provide the commission, upon its request, immediate access to specified *evidence, information, and* documents, including any and

all documents under the electrical corporation's control that are related to the incident and are not subject to attorney-client privilege or attorney work product doctrine.

This bill would require every electrical corporation to cooperate fully with the commission in an investigation into any major accident or any reportable incident concerning any electric supply facilities, rather than only overhead electric supply facilities. The bill would ~~require every gas corporation to cooperate fully with the commission in an investigation into any major accident or any reportable incident concerning commission-regulated gas pipeline facilities, regardless of pending litigation or other investigations. The bill would require each electrical corporation and gas corporation, after the scene of the incident has been made safe and, in the case of a major outage, service has been restored, to provide the commission, upon request, with access to all measurements of every utility instrumentality or facility in the vicinity of the incident, all calculations regarding every instrumentality or facility in the vicinity of the incident, any analysis regarding the cause, or causes, of the incident, and any recording or paraphrasing of any statement by a witness.~~ *make the above-described requirements that are currently applicable to an electrical corporation additionally applicable to gas corporations, but would permit all of these corporations to postpone commission access to the specified evidence, information, and documents until after service restoration only in the case of a major outage. The bill would provide that facts, information, or documents that concern, discuss, or analyze an accident or a failure involving electrical corporation or gas corporation facilities, but that themselves are not privileged or subject to the attorney work product doctrine, may not be withheld from the commission on the basis that they are or were referenced or discussed in a communication with counsel or incorporated into an attorney's work product.*

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 316 of the Public Utilities Code is
2 amended to read:

3 316. (a) Each electrical corporation and gas corporation shall
4 cooperate fully with the commission in an investigation into any
5 major accident or any reportable incident, as these terms are defined
6 by the commission, concerning electric supply facilities and
7 commission-regulated gas pipeline facilities, regardless of pending
8 litigation or other investigations, including, but not limited to,
9 those that may be related to a commission investigation.

10 (b) After the scene of the incident has been made safe and, in
11 the case of a major outage, service has been restored, each electrical
12 corporation and gas corporation shall provide the commission,
13 upon its request, immediate access to all of the following:

14 (1) Any factual or physical evidence under the electrical or gas
15 corporation's, or its agent's, physical control, custody, or
16 possession related to the incident.

17 (2) The name and contact information of any known percipient
18 witness.

19 (3) Any employee percipient witness under the electrical or gas
20 corporation's control.

21 (4) The name and contact information of any person or entity
22 that has taken possession of any physical evidence removed from
23 the site of the incident.

24 ~~(5) Each and every measurement of every utility instrumentality~~
25 ~~or facility in the vicinity of the incident. Historical, as well as~~
26 ~~post-incident measurements, shall be produced. Measurements of~~
27 ~~instrumentalities or facilities not owned by the utility shall also be~~
28 ~~produced, if those measurements are available.~~

29 ~~(6) Each and every calculation regarding every instrumentality~~
30 ~~or facility in the vicinity of the incident. Historical, as well as~~
31 ~~postincident, calculations shall be produced.~~

32 ~~(7) Each and every analysis regarding the cause, or causes, of~~
33 ~~the incident. Each analysis shall be produced regardless of whether~~

1 ~~identified as a root cause analysis, a causal evaluation, a failure~~
2 ~~analysis, a storm register, or identified in some other manner.~~

3 ~~(8) Each and every recording or paraphrasing of any statement~~
4 ~~by a witness.~~

5 ~~(9)~~

6 (5) Any and all documents under the electrical or gas
7 corporation's control that are related to the incident and are not
8 subject to attorney-client privilege or the attorney work product
9 doctrine. *Facts, information, or documents that concern, discuss,*
10 *or analyze an accident or a failure involving utility facilities, but*
11 *that themselves are not privileged or subject to the attorney work*
12 *product doctrine, may not be withheld from the commission on the*
13 *basis that they are or were referenced or discussed in a*
14 *communication with counsel or incorporated into an attorney's*
15 *work product.*

16 (c) Each electrical corporation and gas corporation shall preserve
17 any and all documents or evidence it collects as part of its own
18 investigation related to the incident for at least five years or a
19 shorter period of time as authorized by the commission.

20 (d) Any and all documents collected by an electrical corporation
21 or gas corporation pursuant to this section shall be catalogued and
22 preserved in an accessible manner for assessment by commission
23 investigators as determined by the commission.

24 SEC. 2. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district will be incurred because this act creates a new crime or
28 infraction, eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section 17556 of
30 the Government Code, or changes the definition of a crime within
31 the meaning of Section 6 of Article XIII B of the California
32 Constitution.